



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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Seattle, WA 98101-3140

OFFICE OF THE  
REGIONAL  
ADMINISTRATOR

NOV 23 2015

Mr. Donald C. Baur  
Perkins Coie LLP  
700 13<sup>th</sup> Street Northwest, Suite 600  
Washington, D.C. 20005-3960

Dear Mr. Baur:

Thank you for your letters, dated September 30, 2015, and October 14, 2015. I appreciate you taking the time to write to me about your clients' concerns regarding the National Environmental Policy Act analyses conducted for the wastewater disposal aspects of the proposed Cowlitz Tribe's casino in Clark County, Washington.

In your letter of September 30 addressed to the Federal Highway Administration, the Washington State Department of Transportation, and the U.S. Environmental Protection Agency, you expressed concern about inadequate processes and analyses associated with the I-5 interchange modifications and expansion proposed for Exit 16, and, in particular, the need for the EPA to review the project under the Safe Drinking Water Act's Sole Source Aquifer program.

We agree that the Troutdale Sole Source Aquifer must be protected so that the public drinking water supply will remain safe. However, that protection will be accomplished under the EPA's Underground Injection Control program rather than the Sole Source Aquifer program. Since federal funds will not be used in the development or construction of the I-5 interchange, there is no requirement or authority for review under the SSA. Instead, the EPA is reviewing a Cowlitz Tribe proposal to inject treated wastewater from the casino-resort into deep, underground wells. The EPA has established minimum requirements to prevent injection wells from contaminating underground sources of drinking water.

In your letter of October 14 addressed to the EPA, you expressed concern about the Cowlitz Tribe's proposed onsite wastewater treatment system that would include deep well injection, and potential impacts to the Troutdale Sole Source Aquifer system. You requested that the EPA conduct a review under our UIC program.

As stated above, the EPA is reviewing the Cowlitz Tribe's wastewater injection system proposal under our UIC program. These types of wells are typically managed as Class V wells, subject to requirements to protect drinking water. The Cowlitz Tribe submitted a proposal and request for Rule Authorization for the injection of treated wastewater effluent from an on-site wastewater treatment and disposal system using vadose zone injection wells on July 20, 2015. The Cowlitz Tribe subsequently submitted an inventory of injection wells on July 27, 2015. The EPA is currently reviewing this information. For more information about the EPA's Underground Injection Control Program, please refer to our web site, <http://www2.epa.gov/uic>.

You also expressed concerns that the details of the plan have not been disclosed or analyzed in previous Environmental Impact Statements conducted by the Bureau of Indian Affairs under NEPA. We believe

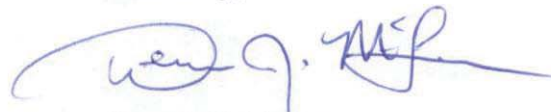
BIA's 2008 EIS thoroughly evaluated environmental issues related to wastewater from the Tribe's casino-resort project, including the need for on-site wastewater treatment capable of meeting Class A reclaimed water specifications. The BIA re-evaluated and re-affirmed that analysis in 2013.

As stated in the EIS and the 2013 re-evaluation, wastewater will be treated on the Tribe's reservation, but rather than seeking the EPA's permission to discharge the treated wastewater to surface water (as originally planned), the Tribe now is seeking the EPA's permission to dispose of the treated wastewater in Class V UIC wells, as described above. The Tribe's UIC request falls within the functional equivalency exception to NEPA (so the EPA action on UIC requests is not subject to analysis under NEPA). The amount of generated wastewater will be the same amount of wastewater analyzed in the EIS and the treatment process will result in reclaimed water of a quality at least as high as that analyzed in the EIS. Significant environmental impacts will be avoided through strict compliance with the EPA's regulatory requirements, as envisioned in the EIS.

Therefore, it does not appear that a supplemental EIS is required in this case. We defer to the BIA for further information regarding agency-specific NEPA compliance; the BIA's NEPA processes and requirements are specified in their NEPA compliance documents.

Again, thank you for contacting the EPA. If you have any questions, please feel free to contact me or have your staff contact Christine Littleton, who is our manager of NEPA review staff. You can reach her by phone at (206) 553-1601 or by email at [littleton.christine@epa.gov](mailto:littleton.christine@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Dennis J. McLerran", with a stylized flourish extending to the right.

Dennis J. McLerran  
Regional Administrator